IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 333 of 2006

SMT.SUNDER DEVI
V/S
STATE & ANR.

Mr. NS ACHARYA, for the appellant / petitioner

Date of Order : 7.9.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant, and perused the impugned judgment.

The learned lower Appellate Court has dismissed the application under Section 5 of the Limitation Act, and has dismissed the appeal as time barred, by holding that the affidavit does not make out any sufficient cause. It has been found by the learned lower Appellate Court that the plaintiff should not have been so careless, as not to even contact her counsel after filing of the suit, notwithstanding the fact, that the premises in question are situated within distance of hardly 1.5 kms from the Court premises. Notwithstanding this, after filing of the suit, the plaintiff never cared for litigation, so much so that despite giving number of opportunities, the plaintiff did not lead any evidence, therefore, the suit was dismissed on 13.4.2006. It has also been found that the counsel for the plaintiff was regularly appearing, and had argued the

matter. It has also been found that if the plaintiff did not contact her counsel to find out the progress of the litigation, it only shows the carelessness on the part of the plaintiff, and thus, she is not entitled to any indulgence simply because, she alleges to be illiterate, or widow, or pleads ignorance. I am at one with the finding of the learned Lower Appellate Court on the question of entitlement of the appellant to have the delay condoned in filing the appeal.

The appeal thus, does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

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